

ORIGINAL

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FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING

JUL 21 2009

Stephan Harris, Clerk
Casper

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

CORI JOHNSTON,)
)
Plaintiff,)
vs.)
)
MILLER INSULATION CO., INC.,) Case No. 09 CV 168-D
a North Dakota corporation,)
)
Defendant.)

COMPLAINT

COMES NOW plaintiff Cori Johnston, by and through her attorney Cameron S. Walker of Schwartz, Bon, Walker & Studer, LLC, and for her cause of action against the defendant pleads and alleges as follows:

Receipt # 015000530
Summons: Issued
 not issued

I. JURISDICTION

1. Plaintiff Cori Johnston is a resident of Natrona County, Wyoming.

2. Defendant Miller Insulation Co., Inc. is a North Dakota corporation qualified to do business in Wyoming and currently in active status in Wyoming. Defendant's principal place of business is in Bismarck, North Dakota.

3. This action is of a civil nature involving, exclusive of interest and costs, a sum in excess of \$75,000. (Plaintiff's medical expenses incurred to date are in the approximate amount of \$67,000.) Every issue of law in fact is wholly between the citizens of different states. This Court has jurisdiction pursuant to 28 U.S.C. § 1332 (a).

4. The acts and omissions complained of occurred in Casper, Natrona County, Wyoming. This Court has proper venue.

II. FACTS COMMON TO ALL CLAIMS

5. Plaintiff incorporates into this count by reference each of the preceding paragraphs as if fully set forth hereinafter.

6. On November 9, 2007 plaintiff Cori Johnston was traveling north on Wyoming Boulevard in Casper, Wyoming.

7. On November 9, 2007, Jeremy Antone Ziegler, acting within the course and scope of his employment by Miller Insulation, was operating a Chevy pickup, traveling south on Wyoming Boulevard

when he crossed over into the oncoming lane of traffic while using his cell phone and struck the vehicle driven by Cori Johnston head-on, causing a severe collision.

III. NEGLIGENCE – JEREMY ANTONE ZIEGLER

8. Plaintiff incorporates into this count by reference each of the preceding paragraphs as if fully set forth hereinafter.

9. Mr. Ziegler was negligent in the following respects:

- (a) Failure to keep a proper lookout;
- (b) Failure to have his vehicle under proper control;
- (c) Failure to yield the right-of-way to Cori Johnston in violation of Wyo. Stat. § 31-5-221; and
- (d) Using his cell phone while driving

IV. NEGLIGENCE – MILLER INSULATION CO., INC.

10. Miller Insulation was negligent in its hiring, training, retention and supervision of Ziegler and entrusting him with operation of a truck owned by Miller Insulation, and for its failure to promulgate rules against using a cell phone while driving.

V. DAMAGES

11. Plaintiff incorporates into this count by reference each of the preceding paragraphs as if fully set forth hereinafter.

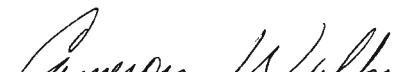
12. The above-described negligence caused significant injuries to Cori Johnston entitling her to recover damages for: past and future medical expenses; past and future pain and suffering; past and future loss of enjoyment of life; past and future loss of income; and, past and future disability.

WHEREFORE, plaintiff demands judgment against defendant, her costs of suit, and such other and further relief as the Court may deem just and equitable.

JURY DEMAND

Plaintiff Cori Johnston, by and through her undersigned attorney, hereby demands that this matter be tried by a jury.

DATED this 21 day of July, 2009.


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